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623 The assembly of all the arms-bearing men of a village /43/ is usually convoked by the village chief in all cases pertaining to the welfare of the village. Such cases are: the laying out of rice fields, the selection of a settlement site in the relocation of villages, communal hunts, and the like. The [666] [634] majority vote decides the issue. The popular assembly, however, may be convoked even against the will of the village chief if the villagers want to file a complaint against their village chief with the great chief. In this case the assembly convenes upon the initiative of the village elders.

634 The popular assembly of all arms-bearing men within the administrative district of a great chief had far greater power. It met only when needed; its decisions had to be unamimous. It was convoked by the great chief in order to pass resolutions about important matters. Such important [721] [796] matters were decisions about war and peace and measures to be taken to celebrate the festival of the New Year or the harvest festival. The resolutions passed by the popular assembly of the great chief were of an advisory nature, for the great chief was under no obligation to comply with them. Actually, of course, he avoided acting against the voice of his people. In one case, however, the great chief was absolutely bound to accept the decision of the popular assembly: when the latter [692] had decided on his removal. The great popular assembly was, at the same time, a court of appeal for verdicts of the great chief, and its decisions were regarded as irrevocable.

634 The expenses of a popular assembly had to be paid by the ●693 person who summoned it, hence either by the great chief himself or the party who had moved that it be convened. Among the expenses there were the provisions for all the assembly-participants at the place of the meeting, but no compensation was given for the journey to and fro. Moreover, in connection with minor cases, two chickens and plenty of alcohol were collected for the great chief and the elders; in connection with major affairs, one or more pigs.

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847 Deliberate abortion is unknown.

681 The most common punishment is whipping, which the village chief may also order. It is meted out in connection [622] with lies, slandering, insults, and similar offenses and is ad- [683] ministered with a cowhide whip which is greased and made [689] pliable over a fire before being used. Moreover, whipping is often inflicted in addition to the frequent fines in money or property; it is also used when fines in money are not brought in. In such a case, one stroke is given for each piece of silver.

681 In cases of theft up to the value of ten pieces of silver, 685 the thief must simply return the stolen goods and, for the first such offense which is proved against him, is merely warned. Recidivous thieves, on the other hand, must expect corporal punishment, which is meted out in addition to fines in money or goods. Thus, recidivous thieves of produce, domestic animals, and similar goods may be sentenced to mutilation and to the amputation of the third, fourth, or fifth finger of one hand as well as half of the left ear. These punishments can also be meted out if a person is unable to pay the fine in money to which he was sentenced.

685 If the stolen goods represent a value of from 10 to 100 693 pieces of silver, fifty per cent more has to be paid as a fine, and in addition 20 to 30 pieces of silver has to be paid to the judge for his services. If the value exceeds 100 pieces of silver, the entire estimated cost of the loot, that is, 100 per cent, must be paid as a fine, and, in addition, far greater charges for the judge.

681 Imprisonment is unknown, as is emasculation or outright 567 selling into slavery. This seems to be in contradiction to the legal practice of handing over the children of debtors to the creditor for his disposal in lieu of payment. /250/ If one recalls, however, that among the Meau adoption is very common and that even traders deal in the trade of human beings only from this point of view of the Meau, be it for adoption or marriage, the apparent contradiction disappears.

AKha A04
Miao AE5

/252 cont./

A M 648 692 In general, however, this gives a rather theoretical picture of legal conditions. Only in very serious cases, and even then only as an exception, are legal cases brought to the law courts of the colonial powers by the mountain people. This usually happens only if a member of a mountain tribe has been in the service of members of other tribes for a long time or lives in a settlement of another tribe, which is rare. In such isolated instances, however, it may happen that such a tribesman will appear as defendant or plaintiff before the court of the colonial administration concerned.

The Akha in Kengtung as well as the Meau in Tonkin who are to a large extent controlled by the government of the colonial powers, settle almost all their cases in their own domain and in accordance with their customary law, so that not more than one per cent of their cases come before the official jurisdiction.

A 628 648 692 [631] /253/ It is different among the Akha when there are disputes to be settled between their various villages. Since the Akha today have no political organization beyond the village unit, they frequently turn to the chief of the nearest valley tribe and ask him to decide the issue (see the chapter, "Political Organization," the section, "Popular Assembly"). The latter, usually a Schan /Shan/ or Lao, then acts as a sort of arbitrator.

e) Legal Procedure in Characteristic Cases

M 692 In accordance with the very precisely organized political structure, the individual Meau is obliged to observe the established legal procedure in all cases. Self-help is therefore forbidden. Accordingly, blood vengeance is unknown, as are secret courts.

M 692 622 [685] [693] Among the Meau, thefts, insofar as trifles are involved, are at first simply put up with; in repeated cases, however, one turns to the village chief, who acts as judge in petty cases. He is the court of the first instance in all lawsuits. If the village is so large, however, that the village chief is too greatly occupied with other matters, then an older man of the village takes over

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692 the office of judge for him. In such cases, if an appeal is made [622] against his decision, the village chief is then the next higher [596] court. In disputes within a large family, the head of the family [693] officiates. For serious decisions, assemblies under the chairmanship of the village chief or the great chief are convened, as I have reported in the chapter, "Political Organization."

695 The judge, with the help of witnesses, tries to determine the facts of the case. Special importance is attached to the testimony of the witnesses, and can be, according to my experience, because among the Meau the witnesses always tell the truth, at least subjectively. Dhuraratsadorn (1) seems to have

1. Page 170.

made similar observations: "They believe that the Meau witnesses always tell the truth. In case of a crime, the Meau seldom question witnesses. If someone accuses another, the accused is either convicted or punished, or he may deny his guilt, /254/ in which case a fine is imposed on the accuser in favor of the accused. If it later turns out that he falsely denied [681] his guilt, he is expelled from the community and must leave the [626] village, for otherwise he would be killed."

In case of a criminal offense for which there are no witnesses, the investigations are discontinued after three years. Nevertheless, there is no time limitation for crimes. Even if the perpetrator is not discovered until ten years later, perhaps accidentally, he is punished exactly as if he had just been caught in the act.

In civil-law cases, too, when the assertions of the parties are contradictory, the judge tries to determine the truth through witnesses. The underlying principle is that the plaintiff and not the accused must prove his assertions. Oaths and oath formulas are unknown. Witnesses, like the parties, are strictly obliged to [577] tell the truth, regardless of whether or not it is damaging to the witness or whether there are ties of kinship with the parties or witnesses. A refusal to give testimony is not permitted; false [687] statements are punished severely.

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695 [634] An ordeal that a great chief had arranged was described to me as follows. The great chief puts some weapons into water to which has been added the blood of a sacrificed chicken and some alcohol. He now conjures up the high Father-Mother spirit and asks him to destroy the liar within a month. All the suspects must then drink some of the liquid. Whoever dies during this period or is otherwise afflicted by severe misfortune is regarded as guilty.

Poison or fire ordeals, on the other hand, are not used and are unknown, as are duels.

A criminal who in the opinion of the judge has been found guilty but nevertheless denies his guilt is tortured in harsher and harsher fashion. To begin with, his fingers are squeezed into an iron fork and the fork is then heated over an open fire. If the accused continues to deny his guilt, the palms of his hands are burned with red-hot iron. At the conclusion of the torture a piece of each ear and the little finger of the hand with which the crime was committed are cut off.

696 [634] [693] The sentences are executed by the men who stand at the disposal of the village chief or the great chief, four or five of whom are assigned to the great chief and one to the village chief (see also the chapter, "Political Organization," section, "Kingship and Chieftainship").

693 695 The costs of a lawsuit are borne by the guilty. They can be considerable if a popular assembly was convened, since the expenses for it must be defrayed /256/ (see the chapter, "Political Organization," the section, "Popular Assembly"). The plaintiff has to bear all the costs until the culprit is discovered. If he cannot pay them at once, they are treated like a debt assumed by him. If, in spite of all efforts, the person guilty of a crime cannot be discovered, the plaintiff, who in all sincerity cast suspicion upon the wrong person, does not pay the costs. They remain unpaid until the guilty person is discovered, for, as was pointed out, there is no time limitation on lawsuits, even though official investigations are discontinued after three years and discovery is left to chance.

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M 693 634 Besides the direct costs of the lawsuit, which at the least consist of the costs for food for all the persons involved in the case, there are for minor cases, two chickens and plenty of alcohol, and for major cases one or more pigs, which must be added for the great chief and the elders. Moreover, as soon as the person is convicted or proved guilty, he has to pay the established fine, which is apportioned in accordance with a definite code, as soon as the decision is given by the great chief. Two-twelfths go to the arms-bearing men of the territory under the great chief; four-twelfths are distributed among the village chiefs of this territory, who use it chiefly to cover the expenses connected with their activities. They also use for this the smaller amounts which they impose independently in petty cases. The remaining six-twelfths, that is, half of the entire sum which the culprit has to pay, goes to the great chief alone and represents an important part of his income (see also the chapter, "Political Organization," the section, "Kingship and Chieftainship").

M [681] [634] [622] [634]

M 695 The verdict is given in accordance with definite judicial principles with which all the older men among the Meau are familiar, since this is a matter of customary law handed down for centuries.

M 673 When the verdict is given, a fundamental distinction is made between premeditation and negligence. Hence a deed is punished only if it was intentionally committed. Even for the negligent killing of a person, among the Meau the culprit is merely required to sacrifice a head of cattle for the soul of the dead.

M [682]

A 692 622 693 /257/ As in almost all matters, the judicial procedure of the Akha also is considerably simpler and more primitive than that of the Meau. As has already been pointed out, the power of the village chief among the Akha is slight and cannot by any means be compared to that among the Meau. This is also apparent in the judicial procedure. Despite the fact that the Akha have no higher court, say, one comparable to the great chief of the Meau, beyond the office of the village chief, the village chief is not the supreme and therefore

A [623]